THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 10268 of 2007

O r d e r:

The petitioner is employed with the respondents-A.P. State Housing Corporation Limited (for short 'the Corporation') as Technical Work Inspector. While he was working as such at Hanumakonda, the District Collector, Warangal, vide orders dated 27.04.2007 surrendered the petitioner to the Head Office on the alleged ground that he committed irregularities and involved in corrupt practices under U.P.H.P. Services. Assailing the said order of the District Collector, Warangal, the petitioner filed writ petition in W.P. No.9836 of 2007, and this Court by order dated 01.05.2007, disposed of the writ petition directing the petitioner to make a representation to the 1st respondent-Managing Director of the Corporation for his posting at Hyderabad or a nearby place, and on such representation being made, directed the 1st respondent to consider the same. In pursuance of the said order, the petitioner made representation dated 02.05.2007 to the 1st respondent, requesting him to post him either at Hyderabad or a nearby place in Ranga Reddy District, keeping in view the ill health of his son and the availability of medical facilities, but it is the case of the petitioner that the 1st respondent without considering the same, has passed the impugned order dated 07.05.2007, posting him at Medak.

The learned counsel for the petitioner submitted that the petitioner has neither committed any irregularities nor is involved in any corrupt practices, and as such, the action of the District Collector, Warangal, in surrendering him to the Head Office, is illegal and arbitrary. He submitted that the petitioner is having a mentally

handicapped son, who is aged 11 and is studying 1st class, and having regard to the fact that medical facilities for his treatment are available only at Hyderabad, as directed by this Court in the earlier writ petition filed by him, he made representation to the 1st respondent requesting to post him either at Hyderabad or a nearby place in Ranga Reddy District, but the

1st respondent without considering the same, passed the impugned order, posting him at Medak, which is illegal and arbitrary. In support of his request for posting him at Hyderabad or a nearby place in Ranga Reddy, he placed reliance on the office memorandum dated 15.02.1991 of the Director, Ministry of Personnel, Public Grievances & Pensions, Government of India, which provided posting of government employees who have mentally retarded children at the place of their choice. Hence, he prayed that the impugned order be set aside and the

1st respondent be directed to post him at Hyderabad or a nearby place in Ranga Reddy District.

This Court, by order dated 09.05.2007, while admitting the writ petition, granted interim suspension of the impugned order. To vacate the said interim order, the respondents filed detailed counter. The learned Standing Counsel for the respondents-Corporation reiterating the counter averments submitted that District Collector, Warangal, *prima facie* found the petitioner to have committed irregularities and involved in corrupt practices, in that he had recommended payments to old houses, AC sheets and houses that were yet to be constructed, and whether the petitioner has committed such irregularities and is involved in corrupt practices or not, are matters of enquiry in the departmental proceedings. In view of the irregularities, said to have been committed by the petitioner, the District Collector, Warangal,

surrendered him to the Head Office. The petitioner in pursuance of the surrender order, also reported to the Head Office on 02.05.2007 and made a request for his posting at Hyderabad or a nearby place in Ranga Reddy District. He submitted that the 1st respondent after consideration of the request of the petitioner, and having regard to the fact that about 150 Work Inspectors are required for supervising the construction work of houses under the Indiramma Housing Programme in Medak District, posted him at Medak, and no exception can be taken thereto, and more so when Medak is nearby to Hyderabad and Ranga Reddy District.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

The petitioner, admittedly, was surrendered by the District Collector, Warangal, vide proceedings dated 27.04.2007 to the Head Office, on the alleged ground that he committed irregularities and is involved in corrupt practices under U.P.H.P. Services. In pursuance of the said surrender order, the petitioner reported to the Head Office on 02.05.2007. The petitioner having reported to the Head Office, cannot be permitted to question the surrender order, and more so when he has not made the District Collector, Warangal, a party-respondent to the writ petition.

The law is well settled that transfer is an incidence of service and is made keeping in view the administrative exigencies, and the Courts normally would not interfere in matters of transfer, even if it is found that the transfers have been effected without following the transfer guidelines, unless it is shown that the transfer orders are fraught with *mala fides* or have been issued in violation of the statutory provisions (See **Union of India v. S.L. Abbas**[1]**.**

The petitioner, as stated above, was surrendered to the Head

Office by the District Collector, Warangal, on the alleged ground that h e committed irregularities and is involved in corrupt practices. Whether the petitioner committed irregularities and is involved in corrupt practices, as alleged by the respondents in their counter, is matte for enquiry, and this Court based on the assertions made in the writ petition, cannot decide whether or not the petitioner committed the irregularities and indulged in corrupt practices. Be that as it may, pursuant to the surrender order of the District Collector, Warangal, the petitioner reported to the Head Office. Now it may be noticed, whether he is entitled to be posted at the place of his choice, i.e. either at Hyderabad or a nearby place in Ranga Reddy District, having regard to the fact that his son, who is aged 11 years and is studying 1st class, is mentally handicapped. Though the petitioner placing reliance on the office memorandum dated 15.02.1991, issued by the Districtor, Ministry of Personnel, Public Grievances and Pensions, Government of India, contended that he is entitled to be posted at a place of his choice in view of the ill health of his son, the fact remains the said memorandum, merely requests the Departments concerned to take a sympathetic view on merits of each case and accommodate such requests for posting to the extent possible. The said memorandum, in fact, provides taking of sympathetic view, in matters of posting of employees who have mentally retarded children, at the place of their choice, but the petitioner cannot dispute, such posting would is certainly subject to availability of posts. It is the specific case of the respondents that the services of the petitioner are most required at Medak, where about 150 Work Inspectors are needed for supervising the work of construction of houses under Indiramma Housing Programme. Since the respondents require the services of the petitioner at Medak, they keeping in view the administrative exigencies, have posted him at the said place, which is very near to

Hyderabad, and therefore, no interference is called for therewith. Medak being a place situated very near to Hyderabad, the petitioner can take care of his mentally retarded son well by availing the medical facilities available in Hyderabad.

In the above view of the matter, I find no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Dated: 8th August, 2007.
KSR

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[1] AIR 1993 SC 2444